

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING & REGULATION
BEFORE THE SOUTH CAROLINA REAL ESTATE COMMISSION**

IN THE MATTER OF:

Alan M. Goldkin,

**License Number REL. 62935 (Property
Manager-in-Charge -Lapsed),**

Case # 2013-321

Respondent.

FINAL ORDER

This matter came before the South Carolina Real Estate Commission ("Commission") on January 21, 2015, as a result of the Notice of Hearing and Formal Complaint which was served upon the Respondent and filed with the Commission. A quorum of Commission members was present. The Hearing was held pursuant to S.C. Code Ann. §§ 40-1-70(6) and 40-57-60(2) (1976, as amended), and the provisions of the Administrative Procedures Act, S.C. Code Ann. § 1-23-10, *et seq.* (1976, as amended). Lauren N. Kearney, Assistant Disciplinary Counsel, represented the State. The Respondent was not present and was not represented by Counsel. The State presented sufficient evidence that Respondent was served at his address of record so the hearing moved forward.

Respondent was charged with violation of S. C. Code Ann. §§40-57-145(A) (10) and (24) and 40-57-135(A) (5) and (C) (1976, as amended).

Witnesses

State's Witness were Marifrances Kudla (via conference call) and Tom Cullinan, South Carolina Labor, Licensing and Regulation ("LLR") Investigator.

Exhibits

- State's Exhibit 1: Notice of Hearing, Formal Complaint, and Certificate of Service.
- State's Exhibit 2: Management Agreement from July 30, 2010 through July 14, 2011.
- State's Exhibit 3: Respondent's rent collection statements for February 2013, March 2013 and April 2013.
- State's Exhibit 4: Email sent to Respondent from Investigator Cullinan dated August 20, 2013.

FINDINGS OF FACT

1. At all times relevant to this action, Respondent was the Property Manager-in-Charge and owner of Shelter Management.

2. Ms. Kudla testified that around July 30, 2010, she entered into a property management agreement with Respondent, wherein Respondent agreed to manage her rental property located at 281 Sweet Alyssum Drive, Ladson, South Carolina 29456 (hereinafter "Rental Property").

3. She testified that Respondent accepted a \$1,100 security deposit in October 2011 and rental payments of \$1,100 per month for February, March, April, and May 2013 from the tenants of the Rental Property. Respondent provided rental statements for February, March and April 2013, but not for May 2013. Respondent failed to remit these monthly rental payments or the security deposit to Ms. Kudla. Ms. Kudla could not contact Respondent therefore she was not able to cancel this property management agreement which resulted in her having difficulty in entering into another property management agreement with another company.

4. On July 22, 2013, Complainant filed a complaint with the South Carolina Department of Labor, Licensing, and Regulation (hereinafter "LLR").

5. Investigator Cullinan testified that he made multiple attempts to contact Respondent, but Respondent failed to reply. He testified that Respondent's only office was a rental box in a UPS store and that Respondent did not have a physical office location.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this case, the Commission finds and concludes as a matter of law that:

1. The Commission has jurisdiction in this matter under S.C. Code § 40-57-60 (2), and, upon finding that a Respondent has violated the statutes or regulations of the Commission, the Commission has the authority to order the revocation, suspension, or cancellation of a license to practice. Additionally, the Commission may assess a fine and impose a public reprimand. Upon a determination by the Commission that discipline is not appropriate, the Commission may issue a non-disciplinary letter of caution. S.C. Code Ann. §§ 40-57-150 and 40-1-120.

2. The State has met its burden of proving a violation of S.C. Code Ann. § 40-57-145(A)(10) (1976, as amended) in that Respondent failed within a reasonable time, to remit monies coming into his possession which belong to others.

3. The State has met its burden of proving a violation of S.C. Code Ann. § 40-57-145(A)(24) (1976, as amended) in that Respondent failed to make all records required to be maintained under this chapter available to the Commission for inspection and failed to appear for an interview with an investigator of the Commission.

4. The State has met its burden of proving a violation of S.C. Code Ann. § 40-57-135(A)(5) (1976, as amended) in that Respondent failed to be available to the public during normal business hours in order to discuss or resolve complaints and disputes which arise during the course of real estate transactions.


5. The State has met its burden of proving a violation of S.C. Code Ann. § 40-57-135(C) (1976, as amended) in that Respondent failed to establish and maintain a specific office location which must be accessible by the public during reasonable business hours.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. Respondent shall be issued a public reprimand.
2. Respondent shall pay a penalty of One thousand dollars (\$1000.00) per violation for a total penalty of Four thousand dollars (\$4000).
3. Respondent's license number REL. 62935 shall be revoked.
4. This Final Order shall take effect on the date of this Order.

AND IT IS SO ORDERED.

SOUTH CAROLINA REAL ESTATE COMMISSION


David A. Crigler
Chairman

March 18, 2015.